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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,330	07/31/2003	Anthony E. Lee	WMK 303	4197
23581	7590	08/24/2004	EXAMINER	
KOLISCH HARTWELL, P.C. 520 S.W. YAMHILL STREET SUITE 200 PORTLAND, OR 97204			OLSON, LARS A	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/633,330

Applicant(s)

LEE ET AL.

Examiner

Lars A Olson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

1. An amendment was received from the applicant on June 30, 2004.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-8, 16-19, 26, 27, 29-31, 36, 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis (US 2,999,253).

Lewis discloses the same self-propelled personal watercraft as claimed, as shown in Figures 1-14, that is comprised of a canoe or kayak body, defined as Part #10, with a hull, defined as Part #12, a deck comprised of two covered, pointed ends, defined as Part #14, and the top surfaces of two side walls, defined as Part #16, as shown in Figures 1-4 and 7, that either partially or substantially covers said hull, said deck having a cockpit and an end, as shown in Figures 13 and 14, a bow portion and a stern portion, and a deck modification module, defined as Part #26 or 30 in Figures 2 and 3, that is removably attached to said deck, where said module is configured to be selectively removable to change a performance characteristic of said deck when said deck is submerged in water. Said deck modification module is further comprised of a first surface that is configured to at least partially rest against said deck of said watercraft, as

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shown in Figures 2 and 3, a second surface with tapered sides and an upturned portion, as shown in Figures 2 and 3, that is configured to interact with a flow of water over said deck, a rigid outer portion that encloses a buoyant material in the form of air, and a channel, defined as Part #36, that is configured to accept the insertion of a fastener, defined as Part #42, as shown in Figures 5-7.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis.

Lewis, as set forth above, discloses all of the features claimed except for the use of a deck modification module with a second surface having rounded corners.

The use of rounded corners instead of edged corners on a deck covering would be considered by one of ordinary skill in the art to be a design choice based upon the desired shape of said covering, and the shape of the object that is covered by said covering.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a deck covering with rounded corners instead of edged

corners as disclosed by Lewis for the purpose of providing a deck module or covering with a rounded shape that does not impede the flow of water over said deck module.

6. Claims 9-15, 20-25, 32-35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Wood (US 4,138,753).

Lewis, as set forth above, discloses all of the features claimed except for the use of a deck module having a rigid plastic outer portion that surrounds a foam core.

Wood discloses a buoyant aquatic cushion, as shown in Figures 1-3, that is comprised of a rigid plastic outer portion, defined as Part #26, having a first surface, defined as Part #14, and a second surface, defined as Part #15, where said outer portion completely surrounds a closed cell foam core, defined as Part #28, as described in lines 47-57 of column 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a module having a rigid plastic outer portion that surrounds a foam core, as taught by Wood, instead of the inflatable module for use on the deck of the self-propelled personal watercraft as disclosed by Lewis for the purpose of providing a watercraft with a buoyant deck module that does not require inflation.

### ***Response to Arguments***

7. Applicant's arguments filed on June 30, 2004 regarding claims 1-39 have been fully considered but they are not persuasive.

8. The applicant first argues that Lewis (US 2,999,253) does not disclose a watercraft having a deck modification module that is removably attachable to a deck of

said watercraft, and selectively removable from said deck in order to change a performance characteristic of said watercraft.

9. In response to the applicant's argument, Lewis discloses a watercraft that does in fact have a deck that is comprised of two covered, pointed ends, defined as Part #14, and the top surfaces of two side walls, defined as Part #16, as shown in Figures 1-4 and 7, to which a deck modification module, defined as Part #26 or 30, is removably attachable to said deck, as shown in Figures 3 and 7, and is selectively removable from said deck in order to change the response of said watercraft to a flow of water over the deck of said watercraft. Therefore, for the reasons given above, the rejection of claims 1-4, 6-8, 16-19, 26, 27, 29-31, 36, 38 and 39 is deemed proper and is not withdrawn.

10. The applicant further argues that Lewis does not teach the use of a deck modification module in combination with a watercraft.

11. In response the applicant's second argument, Lewis does in fact disclose the use of a buoyant deck modification module, defined as Part #26 or 30, that is removably attachable to a deck of a watercraft, as shown in Figures 1-4 and 7, and is selectively removable in order to change the response of said watercraft to a flow of water over the deck of said watercraft. Whether or not water is allowed into the watercraft as disclosed by Lewis under said deck modification module is not relevant, since there is no limitation provided in the applicant's claims requiring said deck modification module be secured to said deck in a water-tight manner. Said deck modification module as disclosed by Lewis would still function to affect the direction of a flow of water over the deck of said

watercraft, regardless of water leakage under said deck modification module.

Therefore, for the reasons given above, the rejection of claims 5 and 28 is deemed proper and is not withdrawn.

12. The applicant also argues that there is no motivation to combine the teachings of Wood (US 4,138,753) with the watercraft as disclosed by Lewis.

13. In response to the applicant's third argument, Lewis does in fact disclose a watercraft with a deck and a deck modification module, as described above, where said deck modification module is configured to be selectively removable to change a performance characteristic of said deck of said watercraft when said deck is submerged in water. The examiner relies upon the Wood reference in order to show that the use of a buoyant member that is comprised of a rigid plastic outer portion that completely surrounds a closed cell foam core is known in the art. It would be considered obvious by one of ordinary skill in the art to replace the inflatable deck modification module as disclosed by Lewis with a buoyant member having a plastic outer portion that surrounds a closed cell foam core, as disclosed by Wood, in order to make the inflation of said deck modification module unnecessary. Therefore, for the reasons given above, the rejection of claims 9-15, 20-25, 32-35 and 37 is deemed proper and is not withdrawn.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication from the examiner should be directed to Exr: Lars Olson whose telephone number is (703) 308-9807.

lo

August 20, 2004

LARS A. OLSON  
PATENT EXAMINER

*Lars Olson*  
8/20/04